

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIEMICHAEL PATRICK EAMES
60 South Buffalo Street
Hamburg, New York 14075,

Plaintiff,

v.

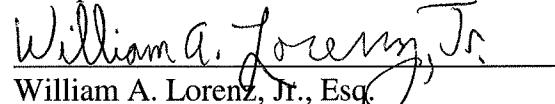
SUMMONS**Index No.:**THE DIOCESE OF BUFFALO, NEW YORK
795 Main Street
Buffalo, New York 14203,SS. PETER & PAUL PARISH COMMUNITY
66 East Main Street
Hamburg, New York 14075,ST. JOHN XXIII PARISH a/k/a
ST. BONAVENTURE PARISH
1 Arcade Street
West Seneca, New York 14224, andDONALD W. BECKER
13831 Eagle Ridge Lakes Drive Apartment 103
Fort Meyers, Florida 33912

Defendants.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, and to serve a copy of your Answer or, if the Complaint is not served with a Summons, to serve a Notice of Appearance, on Plaintiff's attorney within **twenty** (20) days after the service of this Summons, exclusive of the day of service, or within **thirty** (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

This action is brought in ERIE COUNTY based upon Plaintiff's residence.

DATED: June 28, 2019
Amherst, New York
William A. Lorenz, Jr., Esq.
HoganWillig, PLLC
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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

MICHAEL PATRICK EAMES,

**VERIFIED
COMPLAINT**

Plaintiff,

Index No.:

v.

THE DIOCESE OF BUFFALO, NEW YORK,
SS. PETER & PAUL PARISH COMMUNITY,
ST. JOHN XXIII PARISH a/k/a
ST. BONAVENTURE PARISH, and
DONALD W. BECKER,

Defendants.

Plaintiff MICHAEL PATRICK EAMES, by and through his attorneys, HOGANWILLIG, PLLC, as and for his Verified Complaint against Defendants THE DIOCESE OF BUFFALO, NEW YORK (“DIOCESE”), SS. PETER & PAUL PARISH COMMUNITY (“PETER & PAUL”), ST. JOHN XXIII PARISH a/k/a ST. BONAVENTURE PARISH (“BONAVENTURE”), and DONALD W. BECKER (“FR. BECKER”) herein, alleges as follows:

1. At all relevant times hereinafter mentioned, Plaintiff was and still is a resident of the Town of Hamburg, County of Erie, and State of New York.

2. Upon information and belief, and at all times hereinafter mentioned, Defendant DIOCESE was and is a Roman Catholic diocese headquartered in Buffalo, New York, with its principal place of business located at 795 Main Street, Buffalo, County of Erie, and State of New York.

3. Upon information and belief, and at all times hereinafter mentioned, Defendant PETER & PAUL was and is a Catholic Church headquartered in Hamburg, New York with its

principal place of business located at 66 East Main Street, Town of Hamburg, County of Erie, State of New York.

4. Upon information and belief, and at all times hereinafter mentioned, Defendant PETER & PAUL was and is also a Catholic School headquartered in Hamburg, New York with its principal place of business located at 68 East Main Street, Town of Hamburg, County of Erie, State of New York.

5. Upon information and belief, and at all times hereinafter mentioned, Defendant BONAVENTURE was and is a Catholic Church headquartered in Hamburg, New York with its principal place of business located at 1 Arcade Street, West Seneca, County of Erie, State of New York.

6. Upon information and belief, and at all relevant times hereinafter mentioned, Defendant DIOCESE operated churches and schools including, during the relevant times herein, Defendants PETER & PAUL and BONAVENTURE.

7. Upon information and belief, and at all relevant times hereinafter mentioned, Defendant FR. BECKER was a Catholic priest and member, agent, servant, and/or employee of Defendants DIOCESE, PETER & PAUL, and BONAVENTURE.

FACTS COMMON TO ALL CLAIMS

8. Upon information and belief, Defendant FR. BECKER was assigned to Defendant BONAVENTURE by Defendant DIOCESE from approximately 1971 to 1974.

9. Upon information and belief, Defendant FR. BECKER was assigned to Defendant PETER & PAUL by Defendant DIOCESE from approximately 1975 to 1979.

10. Upon information and belief, during the times relevant to the allegations set forth herein, Defendant FR. BECKER was under the direct supervision, employ, and/or control of Defendants DIOCESE, BONAVVENTURE, and PETER & PAUL.

11. Upon information and belief, Defendant FR. BECKER'S assignments included: St. Mark in Rushford (1968); Assumption of the Blessed Virgin Mary in Lancaster (1969-1970); Defendant BONAVVENTURE (1971-1974); Defendant PETER & PAUL (1975-1979); Nativity Church in Orchard Park (1980-1981); St. Stephen Church in Grand Island (1982-1984); St. Agatha in Buffalo (1985-1989); St. Mary in Batavia (1992-2002); and "Absent on leave" in 2003.

12. Upon information and belief, Defendant FR. BECKER is a retired priest residing in Fort Meyers, Florida.

13. On March 20, 2018, Defendant DIOCESE included Defendant FR. BECKER on its list of priests who "were removed from ministry, were retired, or left ministry after allegations of sexual abuse of a minor."

14. Through Defendant FR. BECKER'S positions at, within, or for Defendants DIOCESE, BONAVVENTURE, and PETER & PAUL, he was put in direct contact with Plaintiff, beginning in the early 1970s.

15. In approximately 1974, Plaintiff was the victim of sexual harassment, sexual abuse, and violence by or at the direction of Defendant FR. BECKER, and with the acquiescence, approval, participation, and implied permission of Defendants DIOCESE, BONAVVENTURE, and PETER & PAUL.

16. Upon information and belief, Defendant FR. BECKER's sexual abuse began when Plaintiff was approximately 15 years old.

17. The incidents experienced by Plaintiff included, but are not limited to, the following:

- a. On at least one occasion, Defendant FR. BECKER brought then-infant Plaintiff to his cabin in Java Center, New York and supplied then-infant Plaintiff with alcoholic beverages to the point where then-infant Plaintiff became unconscious.
- b. Defendant FR. BECKER performed oral sex on then-infant Plaintiff when Plaintiff regained consciousness the following morning, in Defendant FR. BECKER's bedroom.
- c. Defendant FR. BECKER then forced then-infant Plaintiff to perform oral sex and him.
- d. Defendant Fr. BECKER then forced then-infant Plaintiff to stimulate Defendant Fr. BECKER by hand until Defendant FR. BECKER ejaculated.

18. Plaintiff sent a letter to Defendant DIOCESE on or about September 5, 2007, alerting Defendant DIOCESE to the abuse Plaintiff suffered at the hands of Defendant FR. BECKER.

19. Defendant DIOCESE has paid Plaintiff for counseling fees and medication since learning of the abuse by Defendant FR. BECKER beginning in 2012.

20. Venue is proper in Erie County based on Plaintiff's residence.

21. This action is brought pursuant to CPLR § 214-G, as added by the New York Child Victims Act, which has revived claims of child sexual abuse for a period of one year

beginning on August 14, 2019, six months after the effective date of the section (February 14, 2019). This action is timely commenced.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS: NEGLIGENCE

22. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "21" as though more fully set forth herein.

23. Defendant FR. BECKER, as an agent, servant, and/or employee of Defendants DIOCESE, BONAVENTURE, and PETER & PAUL, was a religious figure and educator who had physical custody of Plaintiff, and owed Plaintiff a duty of care.

24. All Defendants were *in loco parentis* and owed Plaintiffs a duty of care.

25. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL breached their duty of care owed to Plaintiff when they allowed Plaintiff to be in contact with Defendant FR. BECKER.

26. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL knew or should have known of the sexual abuse, sexual harassment, and violence occurring by or at the direction of Defendant FR. BECKER, and breached their duty owed to Plaintiff when they failed to report the sexual abuse, sexual harassment, and violence occurring by or at the direction of Defendant FR. BECKER.

27. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL are individually responsible and are also responsible under the doctrines of vicarious responsibility and respondent superior.

28. Plaintiff suffered severe emotional and mental suffering and distress due to Defendant's actions, as well as fear for his own physical safety.

29. As a result of Defendants' breach, Plaintiff has incurred and will incur medical costs to treat their past, present, and future psychological suffering as a result of being a victim of sexual abuse, sexual harassment, and violence while in the control of Defendant FR. BECKER.

30. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS:
FAILURE TO REPORT**

31. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "30" as though more fully set forth herein.

32. Defendants BONAVENTURE and PETER & PAUL, through their agents, servants, and employees, were Mandated Reporters under New York Social Services Law.

33. Defendants BONAVENTURE and PETER & PAUL, through their agents, servants, and employees, had reasonable cause to suspect that Plaintiff was being abused and/or maltreated by Defendant FR. BECKER.

34. Defendants BONAVENTURE and PETER & PAUL, through their agents, servants, and employees, knowingly and willfully failed to report the suspected child abuse or maltreatment to anyone, including the police or Child Protective Services.

35. Defendants BONAVENTURE and PETER & PAUL did not provide their employees with written information on reporting requirements.

36. Defendants BONAVENTURE and PETER & PAUL failed to follow the policies of required reporting including, but not limited to, the policies listed in the Code of Conduct for Priests, Deacons, Pastoral Ministers, Administrators, Staff and Volunteers, as well as New York Consolidated Laws, Social Services Law - SOS § 413.

37. Defendants BONAVENTURE and PETER & PAUL are liable for the failure to report pursuant to New York Consolidated Laws, Social Services Law - SOS § 420.

38. The knowing and willful failure of Defendants BONAVENTURE and PETER & PAUL, through the inaction of their agents, servants, and employees, to report the child abuse and maltreatment of Plaintiff was a proximate cause of Plaintiff's damages.

39. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS:
INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS

40. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "39" as though more fully set forth herein.

41. During the time period encompassing 1974, Defendants DIOCESE, BONAVENTURE, and PETER & PAUL allowed Defendant FR. BECKER unrestricted access to Plaintiff and willfully and/or intentionally ignored complaints against Defendant Fr. BECKER of sexual abuse, sexual harassment, and violence.

42. During the time period referenced above, Defendants DIOCESE, BONAVENTURE, and PETER & PAUL willfully and/or intentionally ignored Plaintiff's safety by requiring and allowing Plaintiff to be watched by Defendant FR. BECKER by himself.

43. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL were deliberately indifferent to the risk of sexual harassment and violence posed to Plaintiff by being alone with Defendant FR. BECKER.

44. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL willfully and/or intentionally created a hostile and unsafe religious and educational environment that no child would be able to tolerate.

45. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL, in order to avoid embarrassment, scandal, and negative publicity, intended to cause Plaintiff shame, humiliation, and extreme emotional distress so Plaintiff would stay silent, and not report the abuse.

46. Defendants behaved in a manner toward Plaintiff that was so outrageous as to exceed all reasonable bounds of decency.

47. Defendants knew with substantial certainty or should have known that their behavior would cause Plaintiff to be a victim of sexual abuse, sexual harassment, and violence.

48. Defendants knew with substantial certainty or should have known that their behavior would cause severe emotional distress to Plaintiff.

49. The foregoing acts of Defendants caused Plaintiff physical, mental and emotional distress.

50. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS

51. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "50" as though more fully set forth herein.

52. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL were negligent when they allowed Plaintiff to continue to be exposed to Defendant FR. BECKER despite being aware of allegations of sexual harassment, sexual abuse, and violence against Defendant FR. BECKER.

53. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL knew or should have known this would subject Plaintiff to sexual harassment, sexual abuse, and violence, and

knew or should have known this would unreasonably endanger Plaintiff's safety, cause them to fear for their safety, and cause them severe emotional distress.

54. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL owed a duty to Plaintiff to protect them from sexual harassment, sexual abuse, and violence from Defendant FR. BECKER, including but not limited to when on the premises of Defendants DIOCESE, BONAVENTURE, and PETER & PAUL.

55. Defendants DIOCESE breached the duty owed to Plaintiff to protect them from sexual abuse, sexual harassment, and violence from Defendant FR. BECKER, including but not limited to when on the premises of Defendants DIOCESE, BONAVENTURE, and PETER & PAUL.

56. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for his own physical safety.

57. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS: NEGLIGENT HIRING

58. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "57" as though more fully set forth herein.

59. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL owed Plaintiff a duty of care to supervise and protect Plaintiff.

60. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL were obligated to Plaintiff to hire and/or assign personnel, including Defendant FR. BECKER, to ensure that the children assigned to said personnel would be in a safe educational and religious environment.

61. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL knew or should have known at the time of Defendant FR. BECKER'S assignment to Defendants DIOCESE, BONAVENTURE, and PETER & PAUL of his propensity for the conduct which caused the injury.

62. Plaintiff was a victim of sexual abuse, sexual harassment, and violence by or at the direction of Defendant FR. BECKER.

63. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL breached their duty of care to Plaintiff when they negligently hired Defendant FR. BECKER.

64. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for his own physical safety.

65. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT SUPERVISION AND RETENTION

66. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "65" as though more fully set forth herein.

67. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL owed Plaintiff a duty of care to supervise and protect Plaintiff.

68. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL were obligated to Plaintiff to supervise the personnel assigned to watch Plaintiff, including but not limited to while on the premises of Defendants DIOCESE, BONAVENTURE, and PETER & PAUL, to ensure that Plaintiff was in a reasonably safe environment.

69. Plaintiff was the victim of sexual abuse, sexual harassment, and violence by or at the direction of Defendant FR. BECKER.

70. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL had knowledge or should have had knowledge of the sexual abuse, sexual harassment, and violence by or at the direction of Defendant FR. BECKER and negligently ignored the sexual abuse, sexual harassment, and violence that was done by or at the direction of Defendant FR. BECKER.

71. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL did not terminate the employment or suspend the duties of Defendant FR. BECKER despite reports concerning the sexual abuse, sexual harassment and violence committed by Defendant FR. BECKER.

72. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL breached their duty of care to Plaintiff when they negligently supervised and retained Defendant FR. BECKER.

73. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for their own physical safety.

74. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS:
PUNITIVE DAMAGES

75. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "74" as though more fully set forth herein.

76. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL's knowledge of the violence, sexual harassment, and/or misconduct against Plaintiff by or at the direction of Defendant FR. BECKER is tantamount to a wanton and conscious disregard for the safety of Plaintiff and others, and warrants the imposition of punitive damages.

77. By reason of the malicious, intentional, willful, and/or negligent conduct of Defendants herein, and by such other acts that were morally reprehensible, Defendants' conduct

evidenced a callous disregard for the safety of Plaintiff, and said acts constituted a wanton, reckless and/or malicious disregard for the rights of others and, as a result thereof, Plaintiff demands punitive damages.

78. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

**AS AND FOR AN EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS:
VIOLATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

79. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "78" as though more fully set forth herein.

80. Title IX of the Education Amendment of 1972 forbids a "funding recipient" from discriminating on the basis of sex in educational programs and activities.

81. Upon information and belief, Defendants BONAVENTURE and PETER & PAUL are "funding recipients" under Title IX.

82. Plaintiff suffered sexual abuse, sexual harassment, and violence by or at the direction of Defendant FR. BECKER, in violation of Title IX.

83. Defendant FR. BECKER'S verbal and physical conduct of a sexual nature was severe or pervasive enough to alter the conditions of Plaintiff's educational environment and created an abusive educational environment.

84. Defendants DIOCESE, BONAVENTURE, and PETER & PAUL had the authority and duty to institute corrective measures.

85. Defendants DIOCESE, BONAVENTURE and PETER & PAUL acted with deliberate indifference in failing to respond to the reports of sexual harassment and sexual abuse being perpetrated by Defendant FR. BECKER.

86. The deliberate indifference of Defendants DIOCESE, BONAVENTURE, and PETER & PAUL, and the sexual harassment and sexual abuse committed by Defendant FR. BECKER, effectively barred Plaintiff access to various educational opportunities and benefits at Defendant PETER & PAUL and subjected Plaintiff to discrimination on the basis of sex in violation of Title IX.

87. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for his own physical safety.

88. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

89. Plaintiff also seeks attorneys' fees under Title IX.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount which exceeds the jurisdictional limits of all other courts which might otherwise have jurisdiction, and for such other and further relief to Plaintiff as this Court deems just and proper.

DATED: June 28, 2019
Amherst, New York


William A. Lorenz Jr., Esq.
Steven M. Cohen, Esq.
Scott Michael Duquin, Esq.
HoganWillig, PLLC
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VERIFICATION

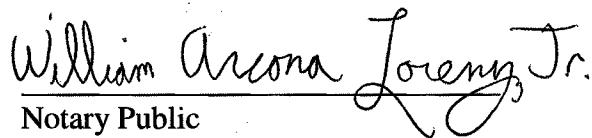
STATE OF NEW YORK)
COUNTY OF ERIE) ss:
)

MICHAEL PATRICK EAMES, being duly sworn, deposes and says that: I am the Plaintiff herein; I have read the annexed Complaint and know the contents thereof, and the contents are true to my knowledge, except those matters alleged upon information and belief, and as to those matters, I believe them to be true:



MICHAEL PATRICK EAMES

Sworn to before me this 28th day of
JUNE, 2019



William Arcona Lorenz Jr.
Notary Public

William Arcona Lorenz Jr.
Notary Public, State of New York
Qualified in Erie County
Lic. # 02LO6285770
Commission Expires July 15, 2021

(H2280670.3)

15

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